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IN THE

Supreme Court of the United States

OCTOBER TERM, 1943

No. **813**

GEORGE GOUMAS,

Petitioner,

—against—

K. KARRAS & SON and SS "KARRAS", her engines, tackle,
appurtenances, etc.,

Respondents.

**PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SECOND CIRCUIT**

DAVID P. SIEGEL,
Attorney for the Petitioner.



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Argument

Point I

The Circuit Court erred in deciding that the facts averred in the libel did not constitute a cause of action within the admiralty and maritime jurisdiction of the United States, and did not give rise to a lien upon the SS "Karras" 7

Point II

The Circuit Court erred in deciding that the facts averred in the libel were insufficient in law to constitute a cause of action, and in affirming the order dismissing the libel 11

Conclusion

It is therefore respectfully submitted that the errors in law of the Court below, and the equities and justice of this case call for the exercise by this Court of its supervisory powers, and to that end a writ of certiorari should be granted and this Court should review the decision of the Circuit Court of Appeals for the Second Circuit and finally reverse it 13

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*To the Honorable Chief Justice of the United States and
Associate Justices of the Supreme Court of the United
States:*

Your petitioner George Goumas prays that a writ of certiorari issue to review the judgment of the United States Circuit Court of Appeals for the Second Circuit entered on the 26th day of January, 1944. Affirming an order of the District Court for the Southern District of New York dismissing petitioner's libel filed against the SS "Karras".

Facts.

The petitioner filed a libel against the SS "Karras" and prayed for an *in personam* judgment against the respondent K. Karras & Son. The master of the SS "Karras" filed a claim to the vessel on behalf of K. Karras & Son, the owner,

and filed an exception to the libel, the attorneys, Reid, Cunningham & Freehill appearing as proctors for the respondents and the claimant (R. 22, 25). That thereafter, upon notice of motion brought on by the attorneys for the respondents and claimant (R. 4), the District Court for the Southern District of New York sustained the exceptions and dismissed the libel (R. 49-52).

The Circuit Court of Appeals on January 26, 1944 handed down its opinion affirming the order of the District Court dismissing the libel.

The petitioner, a ship master duly licensed in the City of New York, received an order from the master of the SS "Karras", a Greek ship flying the Greek flag, and lying in the harbor at Montreal, Canada, to secure for the said vessel eighteen (18) crew men. The petitioner performed his part of the said agreement and did so deliver the seamen at the Canadian border, where they were met by the master of the SS "Karras" and were admitted into Canada by the immigration authorities. The seamen were brought to the vessel, and upon boarding the same, discovered that the ship was unseaworthy, uninhabitable and abounded in vermin, and refused to proceed with the vessel as they had agreed to do (fol. 15).

The seamen were destitute and without funds, and called upon the petitioner for assistance. The petitioner was compelled to and did find board for the seamen, and was compelled to retain counsel to defend himself against charges brought against him by the seamen. That as a result of the misrepresentations of the master of the SS "Karras" with regard to the seaworthiness and habitability of the vessel, the petitioner's place of business in the City of New York was picketed and boycotted by an organization of merchant seamen, and the petitioner filed the petition for libel against the SS "Karras", and for an *in personam* judgment against K. Karras & Son for the damages sustained

by him in expending monies in returning the seamen to the United States and for damages to his reputation and good name.

Questions Presented.

(1) Did the Circuit Court of Appeals err in holding that the District Court lacked admiralty jurisdiction in this case?

(2) Did the Circuit Court of Appeals err in holding that the contract here was not of a maritime nature, and that there was no jurisdiction in admiralty except of a maritime contract?

(3) Did the Circuit Court of Appeals err in holding that even if the libel be regarded as a tort claim, it was not a maritime tort?

(4) Did the Circuit Court of Appeals err in holding that the suit related to events which occurred after the execution of the contract, and that admiralty jurisdiction in any event would be doubtful?

(5) Did the Circuit Court of Appeals err in affirming the order of the District Court dismissing the libel?

Reasons for Granting the Writ.

(1) The Circuit Court of Appeals in holding that the District Court lacked admiralty jurisdiction decided an important question of Federal law which should be settled by the Honorable Court.

(2) The Circuit Court of Appeals in holding that the contract here was not of a maritime character, nor a mari-

time tort if the libel be regarded as a tort claim, ousted the Federal Court of jurisdiction and in effect made it impossible for the plaintiff to procure relief in the Federal Courts.

(3) That certiorari should be granted in the interests of justice since the denial of Federal jurisdictions invokes the important question of the rights of seamen during the war emergency to relief in the Federal Courts.

WHEREFORE, it is respectfully prayed that a writ of certiorari be issued out of and under the seal of this Honorable Court directed to the United States Circuit Court of Appeals for the Second Circuit, commanding that Court to certify and send to this Court for its review and determination a full and complete transcript of the record and all proceedings in the case at bar, and that the judgment of said Circuit Court of Appeals for the Second Circuit may be reversed by this Honorable Court, and that your petitioner may have such other, further and different relief in the premises as the Court may deem just and proper.

GEORGE GOUMAS,
Petitioner.

By DAVID P. SIEGEL,
Counsel for Petitioner.

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